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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,729	03/13/2001	Kannan Srinivasan	696.001	2030

35195 7590 09/22/2005

FERENCE & ASSOCIATES
409 BROAD STREET
PITTSBURGH, PA 15143

EXAMINER

HAYES, JOHN W

ART UNIT PAPER NUMBER

3639

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/804,729

Applicant(s)

SRINIVASAN ET AL.

Examiner

Richard Woo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

- 1) Applicant's amendments filed on June 16, 2005 has been acknowledged and entered.

Response to Arguments

- 2) Applicant's arguments, filed on June 16, 2005, with respect to a rejection under 35 U.S.C. 112, 2nd paragraph have been fully considered and are persuasive. The rejection of corresponding Claims has been withdrawn.
- 3) Applicant's arguments filed on June 16, 2005, with respect to rejections under 35 U.S.C. 101 and 102 have been fully considered but they are not persuasive.

Although the applicant's amendment to Claim 1 by reciting a computer in the preamble is much appreciated, there is no significant recitation of the data processing system or calculating computer for performing data processing operations in the actual claim body. The applicant would overcome the rejection by reciting a data processing system, processor or computer in the method step(s). e.g., determining by electronic manipulation..., or by a processor.

In response to an applicant's argument that Herz contends that his system, not an Internet merchant, tracks the configuration data, the examiner respectfully traverses it. Herz shows that shopper profiles could be used to suggest customized **JOINT** promotions (such as buying the vacation, and get a discount on the ski cap: at least two

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different Internet merchants) (see paragraph [0010]). Accordingly, Herz et al. discloses the invention involving more than one Internet merchant.

In response to the applicant's argument that Herz et al. does not expressly disclose that the system randomly sample the visitors to the website, the examiner respectfully traverses it. Herz et al. samples the visitors based on some categories (e.g., demographic information or age, income) and within these categories the visitors are randomly sampled. A Random Visitor is an anonymous person whose identity is not known to the system until he or she falls into one of those categories. Accordingly, the system of Herz et al. discloses a random sampling.

4) The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 101

5) 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6) Claims 1-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In this application, there is no significant recitation of the data processing system or calculating computer for performing data processing operations in the actual claim body. The applicant would overcome the rejection by reciting a data processing system, processor or computer in the method step(s). e.g., determining by electronic manipulation..., or by a processor.

Claim Rejections - 35 USC § 102

7) Claims 1-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Herz et al. (US 2001/0014868).

As for Claim 1, Herz et al. discloses a method comprising:

(a) receiving configuration data from the Internet merchant (see Fig. 1, para. [0004], [0005]);

(b) randomly sampling visitors to the Internet website according to the configuration data (see supra paragraph and [0006], [0021]);

(c) determining an optimal price using the data acquired in step (b) (see Supra paragraphs, [0236], [0241]); and

(d) displaying the optimal price to the Internet merchant (see Id.).

As for Claim 2, Herz et al. further discloses the method, wherein said configuration data includes sampling parameters (see paragraphs [0004], [0005], [0006], [0021]).

As for Claim 3, Herz et al. further discloses the method, where said configuration data includes potential prices that are offered to the sampled population in step (b) (see paragraphs [0021], [0236], [0241]).

As for Claim 4, Herz et al. further discloses the method, wherein said configuration data includes whether the sampling is to be performed continuously or at discrete intervals (see Supra paragraphs).

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As for Claim 5, Herz et al. further discloses the method, wherein said configuration data includes data for segmenting the population into clusters (see paragraphs [0005], [0006]).

As for Claim 6, Herz et al. further discloses the method, wherein said configuration data includes a minimum threshold for automatically propagating an optimal price (see paragraphs [0021], [0236], [0241]).

As for Claim 7, Herz et al. further discloses the method, wherein said random sampling is performed on the entire population of visitors to the website (see paragraphs [0004]-[0006]).

As for Claim 8, Herz et al. further discloses the method, wherein visitors to the website are grouped, and each group is sampled separately (see Id.).

As for Claim 9, Herz et al. further discloses the method, wherein an optimal price is determined for each group (see paragraphs [0006], [0021], [0236], [0241]).

As for Claim 10, Herz et al. further discloses the method including updating the website such that a visitor is offered the optimal price determined in step (c) according to the visitor's group (see Id.).

As for Claim 11, Herz et al. further discloses the method, wherein groups are determined based upon prior purchasing behavior (see Supra paragraphs).

As for Claim 12, Herz et al. further discloses the method, wherein groups are determined based upon demographic characteristics (see paragraphs [0005]-[0006]).

As for Claim 13, Herz et al. further discloses the method, wherein step (c) comprises determining a price that optimizes profit (see paragraphs [0236], [0241]).

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As for Claim 14, Herz et al. further discloses the method including: automatically updating the website to use the optimal price determined in step (c) (see Id.).

As for Claim 15, Herz et al. further disclose the method including: automatically updating the website to use the optimal price determined in step (c) if the optimal price meets a minimum threshold (see Id.).

As for Claim 16, Herz et al. further discloses the method, wherein the minimum threshold is that the optimal price determined in step (c) is a predetermined percentage better than a currently offered price for the product (see paragraphs [0005], [0006], [0021], [0236], [0241]).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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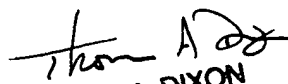
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Woo whose telephone number is 571-272-6813. The examiner can normally be reached on Monday-Friday from 8:30 AM -5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Richard Woo
Art Unit 3639
September 16, 2005


THOMAS A. DIXON
PRIMARY EXAMINER